IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7152 of 1995

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G.S.R.T. CORPORATION - Petitioner(s)

Versus

ABDULBHAI BALIBHAI BILAKHIA - Respondent(s)

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Appearance :

MS BHAVIKA KOTECHA for MR YOGESH S LAKHANI for Petitioner No(s).: 1.

MR MUKESH H RATHOD for Respondent No(s).: 1.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 12/07/2005

ORAL JUDGMENT

1.0 The petitioner Corporation has challenged the order

dated 31.08.1995 passed by the Industrial Tribunal, Ahmedabad in Complaint (IT) No.116 of 1995 in Reference (IT) No.548 of 1986, whereby the transfer order of the respondent was stayed.

2.0 The brief facts of the case are that the respondent herein was transferred from the Amreli Division of the petitioner Corporation to Valsad Division. It is the case of the petitioner that the order of transfer was served upon the respondent and that he was relieved from his duties well before the respondent had filed the complaint in question.

2.1 It is the further case of the petitioner that in spite of the above the respondent filed a complaint before the Industrial Tribunal, Ahmedabad, praying that the order of transfer may not be implemented and if it is implemented, then the same may be suspended and a mandatory order be passed to allow the respondent to continue at the Dhari Depot of the petitioner Corporation. The Tribunal, after hearing the parties, passed the impugned order. Hence, this petition.

3.0 While admitting the matter on 04.09.1995, this Court has passed the following order;

> "1. Rule. Heard the ld. Counsel for the respective parties on interim relief. The impugned order is an order of interim relief passed by the Tribunal confirming the ex-parte and ad-interim relief passed in favour of the present respondent. Admittedly, the ex-parte ad-interim order in effect and substance amounts only to issuance of notice to the other side namely the present petitioner. It does appear that the intention of the Tribunal while passing the ex-parte ad-interim order was something different. However, this Court cannot speculate on what terms such ad-interim relief would have been granted, had said order been expressed in clear terms. As the situation stands, the said ad-interim order, apart from issuing notice to the other side, does not really interfere with the transfer order which was the subject matter before the Tribunal. In any case, it is an admitted position that the transfer order had been implemented even before the ex-parte ad-interim order was passed by the Tribunal. Under the circumstances, the impugned order cannot be interpreted to mean, even on a prima facie basis, to be a mandatory order reversing the transfer order. However, in order to avoid complications arising in this fact situation, it is directed that the operation and implementation of the impugned order is stayed.
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> 2. It is further directed by consent of the ld. Counsel for the respective parties that the main complaint, namely, Complaint (IT) No. 116 of 1995 should be heard and decided as expeditiously as possible and preferably before 10th Nov, 1995."

4.0 I have heard learned counsel for the parties and perused the documents placed on record. The aforesaid order of this Court has remained in force for almost ten years. Hence, looking to the facts and circumstances of the case, it would be appropriate to continue the directions issued by this Court while admitting the matter, till the

reference being Reference (IT) No. 548 of 1986 pending before the Industrial Tribunal, Ahmedabad, is disposed of.

5.0 In above view of the matter, the Industrial Tribunal, Ahmedabad is directed to expedite the hearing of the reference being Reference (IT) No. 548 of 1986 and to dispose it of within a period of one year from the receipt of writ of this order, if the same is not disposed of so far, with a clarification that the order dated 04.09.1995 passed by this Court shall continue till the final disposal of the said reference. The petition stands disposed of accordingly. Rule is made absolute to the aforesaid extent with no order as to costs.

(K. S. JHAVERI, J.)

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